

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**United States Courts
Southern District of Texas
ENTERED**

APR 04 2006

Michael N. Milby, Clerk of Court

JESUOROBO ISAAC RUSHER,
(#A-75275832),

Petitioner,

v.

ALBERTO GONZALEZ,

Respondent.

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CIVIL ACTION NO. H-05-4132

MEMORANDUM ON DISMISSAL

The petitioner, Jesuorobo Isaac Rusher, was in custody of the Department of Homeland Security, Immigration and Customs Enforcement Division, in Houston, Texas at the time he filed this federal petition. Rusher, proceeding *pro se*, challenges a 2002 conviction in the 213th Judicial District Court of Tarrant County, Texas, which was entered on October 16, 2002. (Cause Number 0850019D). Rusher states that he discharged this sentence. (Docket Entry No. 2, Memorandum in Support of Petition, p. 9).

In Civil Action Number 4:06-0178, Rusher filed a petition for a writ of habeas corpus challenging the same state conviction. In that case, Rusher also sought to stay an order of deportation entered by an immigration judge. He explained that the stay of

deportation was necessary so that he could challenge his state criminal conviction.

On March 30, 2006, this court found that because the petition in Civil Action Number 4:06-0178 sought judicial review of a final order of deportation, this court had no jurisdiction to review the merits of the petition or to stay the order of deportation. Real ID Act, § 106(a)(1)(B)(5).

This court noted that the Bureau of Immigration and Customs Enforcement had deported¹ Rusher, so this court could not provide Rusher with the habeas relief he sought, *i.e.*, a new trial in state court. His claims for habeas relief on this claim are moot. Finally, this court determined that Rusher's constructive writ of error coram nobis lacked merit.


The court notes that Rusher filed an identical 5-page federal petition in the instant case and in 4:06-178. He filed Civil Action Number 4:05-4132 on December 6, 2005, and he filed Civil Action Number 4:06-0178 on January 13, 2006. The record shows that Rusher filed additional pleadings in Civil Action Number 4:06-0178 in support of his petition. In the present petition, Rusher presents claims that this court previously adjudicated in Civil Action Number 4:06-0178.

Based upon the foregoing, it is ORDERED that the petition for a writ of habeas

¹In Civil Action Number 4:05-3771, the respondent advised this court that Rusher had been deported to Nigeria on January 25, 2006.

corpus is dismissed without prejudice as duplicative of claims previously adjudicated in this court. All pending motions are denied without prejudice as moot.

SIGNED at Houston, Texas, on April 3, 2006.



VANESSA D. GILMORE
UNITED STATES DISTRICT JUDGE